

**Section 328 Taxability Matrix  
Library of Definitions  
(Revised July 2008)**

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Each of the items listed in the chart are defined in the Library of Definitions in the Streamlined Sales and Use Tax Agreement (SSUTA) adopted November 12, 2002 and as amended effective January 1, 2008. Refer to Appendix C of the SSUTA for each definition.

Place an "X" in the appropriate column under the heading "Treatment of definition" to indicate the treatment of each definition in your state. If a product definition was not adopted by your state, enter "NA" in the column under the heading "Reference" and indicate in the "Treatment of definition" columns the treatment of the product in your state. In accordance with the SSUTA, your state must adopt the definitions in the Library of Definitions that apply to your state without qualifications except for those allowed by the SSUTA. For this reason, do not enter any comments or qualifications in the two columns under the heading "Treatment of definition". If your state has adopted a definition in the Library of Definitions with a qualification not specified in the SSUTA, do not place an "X" in either column under the heading "Treatment of definition" but include a comment in the "Reference" column explaining the qualification. Enter the applicable statute/rule cite in the "Reference" column.

**Sellers and certified service providers are relieved from tax liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales and use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state relative to treatment of the terms defined in the Library of Definitions.**

<b>Administrative definitions</b>	<b>Treatment of definition</b>		<b>Reference</b>
	<b>Included in sales price</b>	<b>Excluded from sales price</b>	<b>Statute/Rule Cite</b>
<b>Sales price:</b> Identify how the options listed below are treated in your state. The following options may be excluded from the definition of sales price only if they are separately stated on the bill to the purchaser.			
• Charges by the seller for any services necessary to complete the sale other than delivery and installation	X		57-39.2-01(11)(a)(3)
• Telecommunication nonrecurring charges	X		57-39.2-01(11)
• Delivery charges	X		57-39.2-01(11)(a)(4)
• Delivery charges excluding direct mail delivery charges			N/A
• Installation charges		X	57-39.2-01(11)
• Credit for trade-in		X	57-39.2-01(11)(d)(4)
<b>Delivery charges:</b> The following options may be excluded from the definition of delivery charges only if they are separately stated on the bill to the purchaser.	<b>Included in delivery charges</b>	<b>Excluded from delivery charges</b>	<b>Statute/Rule Cite</b>

• Handling, crating, packing, preparation for mailing or delivery, and similar charges	X		57-39.2-01(6)
• Transportation, shipping, postage, and similar charges	X		57-39.2-01(6)
• Delivery charges for direct mail	X		57-39.2-01(6)
<b>Product definitions</b>			
<b>Clothing and related products</b>	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
Clothing	X		57-39.2-02.1(1)(a)
Fur Clothing	X		57-39.2-02.1(1)(a)
Clothing accessories or equipment	X		57-39.2-02.1(1)(a)
Protective equipment	X		57-39.2-02.1(1)(a)
Sport or recreational equipment	X		57-39.2-02.1(1)(a)
<b>Computer related products</b>	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
Computer	X		57-39.2-02.1(1)(g)
Computer software (both prewritten and non-prewritten)			57-39.2-02.1(1)(g) (Footnote #1)
Computer software (both prewritten and non-prewritten) delivered electronically			57-39.2-02.1(1)(g) (Footnote #1)
Computer software (both prewritten and non-prewritten) delivered via load and leave			57-39.2-02.1(1)(g) (Footnote #1)
Prewritten computer software	X		57-39.2-02.1(1)(g)
Prewritten computer software delivered electronically	X		57-39.2-02.1(1)(g)
Prewritten computer software delivered via load and leave	X		57-39.2-02.1(1)(g)
<b>Digital Product Definitions</b>	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
Specified Digital Products		X	N/A
Digital Audio Visual Works		X	N/A
Digital Audio Works		X	N/A
Digital Books		X	N/A
Products Transferred Electronically (not included in Specified Digital Products)		X	N/A
<b>Food and food products</b>	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
Food and food ingredients excluding alcoholic beverages and tobacco		X	57-39.2-04.1
Candy	X		57-39.2-04.1(2)(b)
Dietary Supplements	X		57-39.2-04.1(2)(c)
Soft Drinks	X		57-39.2-04.1(2)(f)
Food sold through vending machines	X		57-39.2-03.3
Prepared Food	X		57-39.2-04.1(2)(d)

<b>Prepared food options - indicate whether the following options are included or excluded from the definition of prepared food.</b>	<b>Included in the definition</b>	<b>Excluded from the definition</b>	<b>Statute/Rule Cite</b>
<ul style="list-style-type: none"> <li>Food sold without eating utensils provided by the seller whose primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries)</li> </ul>		X	57-39.2-04.1 (2)(e)(3)(a)
<ul style="list-style-type: none"> <li>Food sold without eating utensils provided by the seller in an unheated state by weight or volume as a single item</li> </ul>		X	57-39.2-04.1 (2)(e)(3)(b)
<ul style="list-style-type: none"> <li>Bakery items sold without eating utensils provided by the seller, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas</li> </ul>		X	57-39.2-04.1 (2)(e)(3)(c)
<b>Health-care products</b>	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
<b>Drugs</b> (indicate how the options are treated in your state)			
<ul style="list-style-type: none"> <li>Drugs (both human and animal use) without a prescription</li> </ul>	X		57-39.2-01(8) 57-39.2-01(15) 57-39.2-04(7) 57-39.2-02.1(1)(a) 57-39.2-04(11) (Footnote #2)
<ul style="list-style-type: none"> <li>Drugs (both human and animal use) with a prescription</li> </ul>			57-39.2-01(8) 57-39.2-01(15) 57-39.2-04(7) 57-39.2-02.1(1)(a) 57-39.2-04(11) (Footnote #3)
<ul style="list-style-type: none"> <li>Drugs for human use without a prescription</li> </ul>	X		57-39.2-01(8) 57-39.2-01(15) 57-39.2-04(7) 57-39.2-02.1(1)(a)
<ul style="list-style-type: none"> <li>Drugs for human use with a prescription</li> </ul>		X	57-39.2-01(8) 57-39.2-01(15) 57-39.2-04(7)
<ul style="list-style-type: none"> <li>Insulin (both human and animal use) without a prescription</li> </ul>			57-39.2-04(36) 57-39.2-02.1(1)(a) (Footnote #2)
<ul style="list-style-type: none"> <li>Insulin (both human and animal use) with a prescription</li> </ul>			57-39.2-04(36) 57-39.2-02.1(1)(a) (Footnote #3)
<ul style="list-style-type: none"> <li>Insulin for human use without a prescription</li> </ul>	X		57-39.2-04(36)
<ul style="list-style-type: none"> <li>Insulin for human use with a prescription</li> </ul>		X	57-39.2-04(36)
<ul style="list-style-type: none"> <li>Medical oxygen (both human and animal use) without a prescription</li> </ul>	X		57-39.2-04(9) 57-39.2-02.1(1)(a)

• Medical oxygen (both human and animal use) with a prescription			57-39.2-04(9) 57-39.2-02.1(1)(a) (Footnote #4)
• Medical oxygen for human use without a prescription	X		57-39.2-04(9) 57-39.2-02.1(1)(a)
• Medical oxygen for human use with a prescription		X	57-39.2-04(9)
• Over-the-counter drugs (both human and animal use) without a prescription	X		57-39.2-02.1(1)(a) 57-39.2-04(11) (Footnote #5)
• Over-the-counter drugs (both human and animal use) with a prescription			57-39.2-04(7) 57-39.2-02.1(1)(a) (Footnote #6)
• Over-the-counter drugs for human use without a prescription	X		57-39.2-04(7) 57-39.2-02.1(1)(a)
• Over-the-counter drugs for human use with a prescription		X	57-39.2-04(7)
• Grooming and hygiene products (both human and animal use)	X		57-39.2-02.1(1)(a)
• Grooming and hygiene products for human use	X		57-39.2-02.1(1)(a)
• Drugs for human use to hospitals and other medical facilities			57-39.2-01(8) 57-39.2-04(24) 57-39.2-02.1(1)(a) (Footnote #7)
• Prescription drugs for human use to hospitals and other medical facilities		X	57-39.2-04(7) 57-39.2-04(24) 57-39.2-02.1(1)(a)
• Drugs for animal use to veterinary hospitals and other animal medical facilities			57-39.2-02.1(1)(a) 57-39.2-04(11) (Footnote #8)
• Prescription drugs for animal use to hospitals and other animal medical facilities			57-39.2-02.1(1)(a) 57-39.2-04(11) (Footnote #8)
• Taxable and nontaxable drugs bundled together	X		57-39.2-04(1)(a) 57-39.2-01(c)(4)(a-b)
• Free samples of drugs for human use	X		57-39.2-01(21) 57-39.2-02.1(1)(a)
• Free samples of prescription drugs for human use	X		57-39.2-01(21) 57-39.2-02.1(1)(a)
• Free samples of drugs for animal use	X		57-39.2-01(21) 57-39.2-02.1(1)(a)
• Free samples of prescription drugs for animal use	X		57-39.2-01(21) 57-39.2-02.1(1)(a)
<b>Durable medical equipment</b> (indicate how the options are treated in your state)	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
• Durable medical equipment without a prescription	X		57-39.2-04(26)(a)

• Durable medical equipment with a prescription	X		57-39.2-04(26)(a)
• Durable medical equipment paid for by Medicare		X	57-39.2-04(26)(a)
• Durable medical equipment reimbursed by Medicare	X		57-39.2-04(26)(a)
• Durable medical equipment paid for by Medicaid		X	57-39.2-04(26)(a)
• Durable medical equipment reimbursed by Medicaid	X		57-39.2-04(26)(a)
• Durable medical equipment for home use without a prescription		X	57-39.2-04(26)(a)
• Durable medical equipment for home use with a prescription		X	57-39.2-04(26)(a)
• Durable medical equipment for home use paid for by Medicare		X	57-39.2-04(26)(a)
• Durable medical equipment for home use reimbursed by Medicare		X	57-39.2-04(26)(a)
• Durable medical equipment for home use paid for by Medicaid		X	57-39.2-04(26)(a)
• Durable medical equipment for home use reimbursed by Medicaid		X	57-39.2-04(26)(a)
• Oxygen delivery equipment without a prescription	X		57-39.2-04(26)(a)
• Oxygen delivery equipment with a prescription	X		57-39.2-04(26)(a)
• Oxygen delivery equipment paid for by Medicare		X	57-39.2-04(26)(a)
• Oxygen delivery equipment reimbursed by Medicare	X		57-39.2-04(26)(a)
• Oxygen delivery equipment paid for by Medicaid		X	57-39.2-04(26)(a)
• Oxygen delivery equipment reimbursed by Medicaid	X		57-39.2-04(26)(a)
• Oxygen delivery equipment for home use without a prescription		X	57-39.2-04(26)(a)
• Oxygen delivery equipment for home use with a prescription		X	57-39.2-04(26)(a)
• Oxygen delivery equipment for home use paid for by Medicare		X	57-39.2-04(26)(a)
• Oxygen delivery equipment for home use reimbursed by Medicare		X	57-39.2-04(26)(a)
• Oxygen delivery equipment for home use paid for by Medicaid		X	57-39.2-04(26)(a)
• Oxygen delivery equipment for home use reimbursed by Medicaid		X	57-39.2-04(26)(a)
• Kidney dialysis equipment without a prescription	X		57-39.2-04(26)(a)
• Kidney dialysis equipment with a prescription	X		57-39.2-04(26)(a)
• Kidney dialysis equipment paid for by Medicare		X	57-39.2-04(26)(a)
• Kidney dialysis equipment reimbursed by Medicare	X		57-39.2-04(26)(a)
• Kidney dialysis equipment paid for by Medicaid		X	57-39.2-04(26)(a)
• Kidney dialysis equipment reimbursed by Medicaid	X		57-39.2-04(26)(a)
• Kidney dialysis equipment for home use without a prescription		X	57-39.2-04(26)(a)
• Kidney dialysis equipment for home use with a prescription		X	57-39.2-04(26)(a)
• Kidney dialysis equipment for home use paid for by Medicare		X	57-39.2-04(26)(a)
• Kidney dialysis equipment for home use reimbursed by Medicare		X	57-39.2-04(26)(a)
• Kidney dialysis equipment for home use paid for by Medicaid		X	57-39.2-04(26)(a)
• Kidney dialysis equipment for home use reimbursed by Medicaid		X	57-39.2-04(26)(a)
• Enteral feeding systems without a prescription	X		57-39.2-04(26)(a)
• Enteral feeding systems with a prescription	X		57-39.2-04(26)(a)
• Enteral feeding systems paid for by Medicare		X	57-39.2-04(26)(a)
• Enteral feeding systems reimbursed by Medicare	X		57-39.2-04(26)(a)
• Enteral feeding systems paid for by Medicaid		X	57-39.2-04(26)(a)

• Enteral feeding systems reimbursed by Medicaid	X		57-39.2-04(26)(a)
• Enteral feeding systems for home use without a prescription		X	57-39.2-04(26)(a)
• Enteral feeding systems for home use with a prescription		X	57-39.2-04(26)(a)
• Enteral feeding systems for home use paid for by Medicare		X	57-39.2-04(26)(a)
• Enteral feeding systems for home use reimbursed by Medicare		X	57-39.2-04(26)(a)
• Enteral feeding systems for home use paid for by Medicaid		X	57-39.2-04(26)(a)
• Enteral feeding systems for home use reimbursed by Medicaid		X	57-39.2-04(26)(a)
• Repair and replacement parts for single patient use		X	57-39.2-04(26)(a)
<b>Mobility enhancing equipment</b> (indicate how the options are treated in your state)	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
• Mobility enhancing equipment without a prescription	X		57-39.2-04(26)(b)
• Mobility enhancing equipment with a prescription		X	57-39.2-04(26)(b)
• Mobility enhancing equipment paid for by Medicare		X	57-39.2-04(26)(b)
• Mobility enhancing equipment reimbursed by Medicare	X		57-39.2-04(26)(b)
• Mobility enhancing equipment paid for by Medicaid		X	57-39.2-04(26)(b)
• Mobility enhancing equipment reimbursed by Medicaid	X		57-39.2-04(26)(b)
<b>Prosthetic devices</b> (indicate how the options are treated in your state)	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
• Prosthetic devices without a prescription	X		57-39.2-04(26)(c)
• Prosthetic devices with a prescription		X	57-39.2-04(26)(c)
• Prosthetic devices paid for by Medicare		X	57-39.2-04(26)(c)
• Prosthetic devices reimbursed by Medicare	X		57-39.2-04(26)(c)
• Prosthetic devices paid for by Medicaid		X	57-39.2-04(26)(c)
• Prosthetic devices reimbursed by Medicaid	X		57-39.2-04(26)(c)
• Corrective eyeglasses without a prescription	X		57-39.2-04(26)(c)
• Corrective eyeglasses with a prescription		X	57-39.2-04(26)(c)
• Corrective eyeglasses paid for by Medicare		X	57-39.2-04(26)(c)
• Corrective eyeglasses reimbursed by Medicare	X		57-39.2-04(26)(c)
• Corrective eyeglasses paid for by Medicaid		X	57-39.2-04(26)(c)
• Corrective eyeglasses reimbursed by Medicaid	X		57-39.2-04(26)(c)
• Contact lenses without a prescription	X		57-39.2-04(26)(c)
• Contact lenses with a prescription		X	57-39.2-04(26)(c)
• Contact lenses paid for by Medicare		X	57-39.2-04(26)(c)
• Contact lenses reimbursed by Medicare	X		57-39.2-04(26)(c)
• Contact lenses paid for by Medicaid		X	57-39.2-04(26)(c)
• Contact lenses reimbursed by Medicaid	X		57-39.2-04(26)(c)
• Hearing aids without a prescription	X		57-39.2-04(26)(c)
• Hearing aids with a prescription		X	57-39.2-04(26)(c)
• Hearing aids paid for by Medicare		X	57-39.2-04(26)(c)
• Hearing aids reimbursed by Medicare	X		57-39.2-04(26)(c)
• Hearing aids paid for by Medicaid		X	57-39.2-04(26)(c)

• Hearing aids reimbursed by Medicaid	X		57-39.2-04(26)(c)
• Dental prosthesis without a prescription	X		57-39.2-04(26)(c)
• Dental prosthesis with a prescription		X	57-39.2-04(26)(c)
• Dental prosthesis paid for by Medicare		X	57-39.2-04(26)(c)
• Dental prosthesis reimbursed by Medicare	X		57-39.2-04(26)(c)
• Dental prosthesis paid for by Medicaid		X	57-39.2-04(26)(c)
• Dental prosthesis reimbursed by Medicaid	X		57-39.2-04(26)(c)
<b>Telecommunications &amp; related products</b>	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
Ancillary Services			57-39.2-02.1(1)(b) 81-04.1-04-41.1
• Conference bridging service	X		57-39.2-02.1(1)(b) 81-04.1-04-41.1
• Detailed telecommunications billing service	X		57-39.2-02.1(1)(b) 81-04.1-04-41.1
• Directory assistance	X		57-39.2-02.1(1)(b) 81-04.1-04-41.1
• Vertical service	X		57-39.2-02.1(1)(b) 81-04.1-04-41.1
• Voice mail service	X		57-39.2-02.1(1)(b) 81-04.1-04-41.1
<b>Telecommunications</b> (Indicate how the options are treated in your state)	<b>Taxable</b>	<b>Exempt</b>	<b>Statute/Rule Cite</b>
• Intrastate Telecommunications Service	X		81-04.1-04-41.1
• Interstate Telecommunications Service		X	81-04.1-04-41.1
• International Telecommunications Service		X	81-04.1-04-41.1
• International 800 service		X	81-04.1-04-41.1
• International 900 service		X	81-04.1-04-41.1
• International fixed wireless service		X	81-04.1-04-41.1
• International mobile wireless service		X	81-04.1-04-41.1
• International paging service		X	81-04.1-04-41.1
• International prepaid calling service		X	81-04.1-04-41.1
• International prepaid wireless calling service		X	81-04.1-04-41.1
• International private communications service		X	81-04.1-04-41.1
• International value-added non-voice data service		X	81-04.1-04-41.1
• International residential telecommunications service		X	81-04.1-04-41.1
• Interstate 800 service		X	81-04.1-04-41.1
• Interstate 900 service		X	81-04.1-04-41.1
• Interstate fixed wireless service		X	81-04.1-04-41.1
• Interstate mobile wireless service		X	81-04.1-04-41.1
• Interstate paging service		X	81-04.1-04-41.1
• Interstate prepaid calling service		X	81-04.1-04-41.1

• Interstate prepaid wireless calling service		X	81-04.1-04-41.1
• Interstate private communications service		X	81-04.1-04-41.1
• Interstate value-added non-voice data service		X	81-04.1-04-41.1
• Interstate residential telecommunications service		X	81-04.1-04-41.1
• Intrastate 800 service	X		81-04.1-04-41.1
• Intrastate 900 service	X		81-04.1-04-41.1
• Intrastate fixed wireless service	X		81-04.1-04-41.1
• Intrastate mobile wireless service	X		81-04.1-04-41.1
• Intrastate paging service	X		81-04.1-04-41.1
• Intrastate prepaid calling service	X		81-04.1-04-41.1
• Intrastate prepaid wireless calling service	X		81-04.1-04-41.1
• Intrastate private communications service	X		81-04.1-04-41.1
• Intrastate value-added non-voice data service	X		81-04.1-04-41.1
• Intrastate residential telecommunications service	X		81-04.1-04-41.1
• Coin-operated telephone service	X		81-04.1-04-41.1
• Pay telephone service	X		81-04.1-04-41.1
• Local Service as defined by North Dakota	N/A		
<b>Sales Tax Holidays:</b> (indicate if your state has a holiday for the following)	<b>Yes</b>	<b>No</b>	<b>Statute/Rule Cite</b>
• Energy Star Qualified Product		X	N/A
• School Supply		X	N/A
• School Art Supply		X	N/A
• School Instructional Material		X	N/A
• School Computer Supply		X	N/A

#### Footnote Exceptions:

- (1) Prewritten software is taxable and non-prewritten software is exempt.
- (2) Drugs sold without a prescription for livestock use are exempt.
- (3) Drugs sold with a prescription for human use are exempt. Drugs sold for livestock use are exempt. Drugs sold with a prescription for other animal use are taxable.
- (4) Medical oxygen sold with a prescription for human use is exempt, but medical oxygen sold for animal use is taxable.
- (5) “OTC” drugs sold without a prescription for livestock use are exempt.
- (6) “OTC” drugs sold with a prescription for human use are exempt. “OTC” drugs sold for livestock use are exempt. “OTC” drugs sold with a prescription for other animal use are taxable.
- (7) Drugs sold to hospitals, skilled nursing facility, intermediate care facility, basic care facility licensed by the state department of health, assisted living facility licensed by the department of human services and emergency medical services operation licensed by the department of health are exempt from tax. Non prescription drugs sold to any other facility, such as a clinic, are taxable.
- (8) All drugs sold to veterinary hospitals and other animal medical facilities are taxable, except for livestock use.